



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

W

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/649,563	08/28/2000	Ashok V.. Joshi	98125CP01	7691

22876 7590 09/10/2003
FACTOR & PARTNERS, LLC
1327 W. WASHINGTON BLVD.
SUITE 5G/H
CHICAGO, IL 60607

EXAMINER

KIM, CHRISTOPHER S

ART UNIT	PAPER NUMBER
----------	--------------

3752

DATE MAILED: 09/10/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/649,563	JOSHI ET AL	
	Examiner	Art Unit	
	Christopher S. Kim	3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 24 July 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,24,25,27 and 28 is/are pending in the application.
- 4a) Of the above claim(s) 25 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,24,27 and 28 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Amendment filed July 24, 2003 is acknowledged.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claim 27 shows change in dependency from "Claim 25" to --Claim 1--. It is noted that claim 27 of record, prior to entry of the aforementioned amendment, depended from claim 26.

Claim Rejections - 35 USC § 102

4. Claim 28 is rejected under 35 U.S.C. 102(b) as being anticipated by Gentil (3,482,929).

Gentil discloses a device comprising: a housing **a**; a volatile substance **b**; means for orienting **d**; means for controllably releasing (column 2, lines 41-42); means for heating **h, h1, I j, j1**.

Applicant is required to identify the "means for controllably releasing" in Species M, figure 14 in the response to this Office action.

Claim Rejections - 35 USC § 103

5. Claims 1, 24 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gentil (3,482,929) in view of DeLuca (4,294,778).

Gentil discloses a device comprising: a housing **a**; a volatile substance **b**; means for orienting **d**; means for controllably releasing (column 2, lines 41-42); means for heating **c,f,h**.

Gentil discloses the limitations of claimed invention with the exception of the means for increasing circulation. Deluca discloses a means for increasing circulation 400. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided a fan to the device of Gentil as taught by Deluca to provide forced air for enhanced evaporation (Deluca, column 8, lines 9-20).

Response to Arguments

6. Applicant's arguments filed July 24, 2003 have been fully considered but they are not persuasive.

In response to applicant's argument that the blown air in DeLuca is not utilized in the evaporation process, Deluca discloses, in column 8, lines 5-20, "velocity of the air flow in the vicinity of reservoir 602 is therefore increased, with corresponding reduction in static pressure. This reduced pressure enhances the evaporation of material from the reservoir."

In response to applicant's argument that Gentil's heating means is located laterally and away from the bottom of tube (a), claim 28 recites, in lines 9-10, "means for heating the emanator material, positioned directly below the housing and the emanator material." The claim does not define nor limit what is encompassed by the recitation

"means for heating the emanator material." The "means" has been considered to include base **c** of Gentil which is directly below the housing **a** and emanator material **e**.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (703) 308-8336. The examiner can normally be reached on Monday - Thursday, 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar can be reached on (703) 308-2087. The fax phone numbers

Art Unit: 3752

for the organization where this application or proceeding is assigned are (703) 872-9302
for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or
proceeding should be directed to the receptionist whose telephone number is (703) 308-
1113.



Christopher S. Kim
Primary Examiner
Art Unit 3752

CK
September 9, 2003